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Attorney for Defendants Alan W. Strebeck and Linda J. Strebeck

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH, CENTRAL DIVISION	
IN RE ALAN WAYNE STREBECK and LINDA JOYCE STREBECK, Debtors, THOMAS SMITH, et al., Plaintiffs, v. ALAN WAYNE STREBECK and LINDA JOYCE STREBECK, Defendants.	MOTION TO SET ASIDE PORTION OF JUDGMENT [Withdrawn Adv. Pro. No. 11-02242 (Bankr. D. UT) (Judge William T. Thurman)] CIVIL CASE NO: 2:13-cv-00027-DB

COME NOW Defendants, Alan Strebeck and Linda Strebeck, by and through counsel,
pursuant to Federal Rule of Civil Procedure 60(b) and hereby ask the Court to Set Aside a
Portion of the former judgment in this case.

FACTS

1. This Court formerly entered Summary Judgment against Defendants Alan and Linda Strebeck.

2. However, said facts do not amount to any liability at all on the part of Defendant Linda Strebeck and, at the time judgment was entered, Defendants did not realize the Defendant Linda Strebeck would be held liable for said judgment.

ARGUMENT

Federal Rule of Civil Procedure 60(b) allows judgment to be set aside for “ (1) mistake, inadvertence...excusable neglect...(2) newly discovered evidence...or...(6) any other reason that justifies relief...” F.R.C.P. 60(b), Sections 1, 2, and 6.

When Defendants admitted the allegations they did in the course of arguing summary judgment, they did not realize that they were also admitting that Defendant Linda Strebeck, wife of Defendant Alan Strebeck, was jointly and severally liable. Therefore, said admission was a mistake, was inadvertent and said neglect was excusable. Further, it has been discovered since then that Mrs. Strebeck was not involved with her husband’s conduct. It would be against the interests of justice to find her also liable.

CONCLUSION

Accordingly, Defendants move to set aside the Summary Judgment as it pertains to Mrs. Linda Strebeck.

DATED this 13th day of February, 2015.

CHAMBERLAIN LAW

/s/ Nic Chamberlain
Attorney for Defendants Alan W. Strebeck
And Linda J. Strebeck

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February, 2015, a true and correct copy of the foregoing document was filed with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the following:

- **Bankruptcy Clerk's Office** -- UTB_Appeals@utb.uscourts.gov
- **Cameron M. Hancock** -- chancock@kmclaw.com, dolson@kmclaw.com
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/s/ Nic Chamberlain